

Notice of Allowability

Application No.

09/751,504

Applicant(s)

ZADROZNY ET AL.

Examiner

Michael N. Opsasnick

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to interview (and fax confirmaton)6/15/2006.
2. ☒ The allowed claim(s) is/are 29,31-33,36-38,40,43,44 and 46-64.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Victor Grossman on June 15, 2006.

The application has been amended as follows:

- 1) Please cancel claims 18-20,22,24-27,68-70.

Allowable Subject Matter

2. Claims 29,31-33,36-38,40,43,44,46-64 are allowable over the prior art of record.
3. The following is a statement of reasons for the indication of allowable subject matter:

As per independent claim 29, the recited limitations pertaining to the structure of the apparatus in storing, allocating, and decision making with respect to storing and accessing behavioral codes based upon measured observations from the subject, is not explicitly taught by the prior art of record. Furthermore, it would not have been obvious to one of ordinary skill in

Art Unit: 2626

the art of utterance interpretation to modify the teachings of the prior art of record to obtain the recited claim limitations of claim 29, as noted above.

With respect to the prior art of record, a representative piece of art relating to utterance interpretation to analyze the behavior of an individual is shown in Hatlelid et al (6404438). Hatlelid et al (6404438) teaches interpreting utterances to identify behavior (col. 1 lines 55-61; col. 9 lines 55-65) by observing behavior's (col. 1 lines 58-62); accessing stored behavioral rules (col. 2 lines 25-39) and assigning it to behaviors (Fig. 3b); then comparing observed contexts to existing stored associations between previous utterances and behaviors (col. 2 lines 64-67); and using the behavioral information to match the code (col. 7 lines 20-37). However, neither Hatlelid et al (6404438) nor the other prior art of record explicitly teach the storing, allocating, and decision making according to behavioral codes including gesture codes, sound codes, property unit codes, duration codes, body position codes, as claimed in independent claim 29.

Claims 31-33,36-38,40,43,44,46-64 are indicated as being allowable over the prior art of record because these claims depend from claim 29, which has been indicated as allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

Art Unit: 2626

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richemond Dorvil, can be reached at (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mno

7/22/06



Michael N. Opsasnick

Examiner

Art Unit 2626